

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ERNEST EVANS, an individual, THE
LAST TWIST INC., a Pennsylvania for
Profit Company and THE ERNEST
EVANS CORPORATION, a
Pennsylvania for Profit Company,

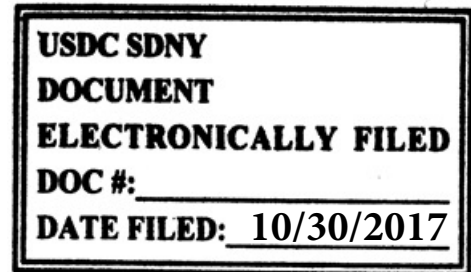
Plaintiffs,

vs.

CASE NO: 16 Civ. 5729 (KHP)

ANDY & EVAN INDUSTRIES, INC., a
New York corporation; THE NEIMAN
MARCUS GROUP LLC, a Delaware
limited liability company; and NEIMAN
MARCUS GROUP LTD LLC, a
Delaware limited liability company,

Defendants.



PERMANENT INJUNCTION AND FINAL CONSENT JUDGMENT

THIS CAUSE having come upon this Court by consent of all parties to this action to the jurisdiction of the undersigned for all purposes and having presided over the settlement conference dated August 28, 2017 and being otherwise advised in the premises,

WHEREAS, Plaintiffs ERNEST EVANS, THE LAST TWIST, INC and THE ERNEST EVANS CORPORATION (“Plaintiffs”) having commenced this action against ANDY & EVAN INDUSTRIES, INC. (A&E) and THE NEIMAN MARCUS GROUP LLC and NEIMAN MARCUS GROUP LTD., LLC (“NEIMAN & MARCUS”) (A&E and “NEIMAN & MARCUS” collectively “Defendants”), and the parties without admitting liability having entered into a confidential settlement agreement.

WHEREAS, the Court has considered the parties arguments regarding the terms of the injunction.

Accordingly, it is ORDERED AND ADJUDGED, that a permanent injunction is hereby entered:

1. Restraining and enjoining the Defendants from using the term “CHUBBY CHECKER” or any other confusingly similar terms, as a trademark in United States commerce in violation of Plaintiffs’ trademark rights, if any, to said term;
2. Restraining and enjoining Defendant A&E from using the term “CHUBBY CHUCKER” as a trademark in United States commerce in violation of Plaintiff’s trademark rights, if any, to said term.
3. Restraining Defendant A&E from selling, advertising, offering for sale, manufacturing or distributing any products labeled, named, branded, referred to or advertised as the “Andy & Evan Chubby Checker Shirtzie,” or otherwise incorporating the trademark “CHUBBY CHECKER” in the sale of a product.
4. The Court will retain jurisdiction to enforce the terms of this Permanent Injunction and Final Consent Judgment, and all other terms of settlement agreed to by the parties relative to this action.

DONE AND ORDERED on this 30 day of October, 2017.



Hon. Katharine H. Parker